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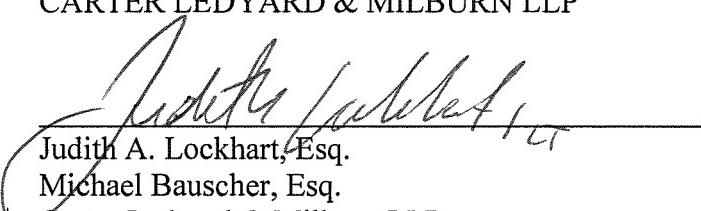
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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LANCER INDEMNITY INSURANCE : ECF Case  
COMPANY as subrogee of DAKOTA DESIGN :  
CENTER INC., : Case No. 1:14-cv-08748-AKH  
Plaintiff, :  
-against- :  
HOME SOLUTIONS BUILDERS INC., :  
CITYWIDE ADJUSTMENT CORP. :  
TRAVELERS PROPERTY CASUALTY :  
COMPANY OF AMERICA, ABC :  
CORPORATION, and JOHN DOES 1-10 :  
Defendants. :  
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**NOTICE OF DEFENDANT'S MOTION TO DISMISS THE COMPLAINT  
PURSUANT TO FED. R. CIV. P. 12(B)(6)**

**PLEASE TAKE NOTICE** that based upon the accompanying Memorandum of Law dated November 10, 2014, the Declaration of Lori Magnuson dated November 10, 2014, the Declaration of Michael Bauscher dated November 10, 2014, and all other papers filed herein, Defendant, The Standard Fire Insurance Company (incorrectly named as "Travelers Property Casualty Company of America") (hereinafter "Standard Fire"), appearing in its fiduciary<sup>1</sup> capacity as the fiscal agent<sup>2</sup> of the United States and at the expense of the United States Treasury,<sup>3</sup> by and through its attorneys, will move this Court on December 15, 2014 at 9:30 a.m., or as soon thereafter as counsel may be heard, before the Honorable Judge Alvin K. Hellerstein, United States District Judge, at the United States Courthouse at 500 Pearl Street, Courtroom 14D, New York, for an order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, dismissing the Third Cause of Action of the Complaint, and all claims asserted by the Plaintiff against Standard Fire, for failure to state a claim upon which relief can be granted, and granting such other and further relief as this Court may deem just and proper.

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<sup>1</sup> See 44 C.F.R. §62.23(f).

<sup>2</sup> See 42 U.S.C. §4071(a)(1); *Gowland v. Aetna*, 143 F.3d 951 (5<sup>th</sup> Cir. 1998).

<sup>3</sup> See 42 U.S.C. §4017(d)(1); *Van Holt v. Liberty Mutual Fire Ins. Co.*, 163 F.3d 161 (3d Cir. 1998).

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**Table of Contents Listing Documents in Support of the Motion to Dismiss**

1. Memorandum of Law in Support of Motion to Dismiss Plaintiff's Complaint dated November 10, 2014
2. Declaration of Lori Magnuson dated November 10, 2014 (the "Magnuson Declaration")
  - A. Declarations Page for Standard Fire Insurance Policy bearing Policy No. 6010161377 for the policy period March 7, 2012 through March 7, 2013, attached as Exhibit A to Magnuson Declaration
3. Declaration of Michael Bauscher dated November 10, 2014 (the "Bauscher Declaration")
  - B. Summons dated September 23, 2014 and Complaint dated September 9, 2014 filed by the Plaintiff, attached as Exhibit B to the Bauscher Declaration